

EDAC

**TRANSMITTAL LETTER**  
**(General - Patent Pending)**

Docket No.  
13028

In Re Application Of: Craig Myers, et al.

Serial No.  
09/666,369

Filing Date  
September 20, 2000

Examiner  
L. Wong

Group Art Unit  
1761

Title: **ANHYDROUS LACTITOL CRYSTALS, A PRODUCT CONTAINING THE SAME AND A  
PROCESS FOR THE PREPARATION THEREOF AS WELL AS USE THEREOF**

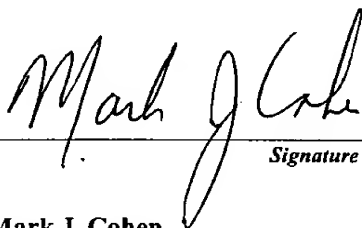
TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**SUBMISSION FOR REQUEST OF REVIVAL FOR APPLICATION PURSUANT TO 37 C.F.R. 1.8 with Exhibits  
A-G (in duplicate)**

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of \_\_\_\_\_ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **19-1013/SSMP**  
as described below.
- ☐ Charge the amount of \_\_\_\_\_
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.

  
Signature

Dated: November 24, 2003

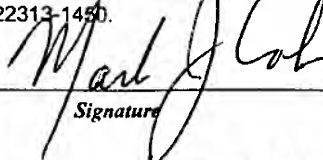
Mark J. Cohen  
Registration No. 32,211  
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**RECEIVED**

DEC 04 2003

**OFFICE OF PETITIONS**

I certify that this document and fee is being deposited  
on 11/24/03 with the U.S. Postal Service as  
first class mail under 37 C.F.R. 1.8 and is addressed to the  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313-1450.

  
Signature

Mark J. Cohen

Typed or Printed Name

CC:



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Craig Myers, et al.

**Examiner:** L. Wong

**Serial No.:** 09/666,369

**Art Unit:** 1761

**Filing Date:** September 20, 2000

**Docket:** 13028

**For:** ANHYDROUS LACTITOL CRYSTALS, A  
PRODUCT CONTAINING THE SAME AND A  
PROCESS FOR THE PREPARATION THEREOF  
AS WELL AS USE THEREOF

**Date:** November 24, 2003

Commissioner for Patents  
Alexandria, VA 22313-1450

**SUBMISSION FOR REQUEST OF REVIVAL  
FOR APPLICATION PURSUANT TO 37 C.F.R. §1.8**

Sir:

Applicants respectfully submit that the above-identified application was incorrectly abandoned by the United States Patent and Trademark Office. Pursuant to the provisions of 37 C.F.R. §1.8, applicants respectfully request that the above-identified application be revived. As shown hereinbelow and attached exhibits, a Notice of Appeal and an RCE were timely filed in response to the Final Office Action which issued on September 10, 2002.

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Alexandria, VA 22313-1450 on November 24, 2003.

Dated: November 24, 2003

  
Mark J. Cohen

**RECEIVED**

DEC 04 2003

**OFFICE OF PETITIONS**

A Final Rejection was mailed by the United States Patent and Trademark Office on September 10, 2002 in the above-identified case. In response thereto, applicants mailed and prepared a Notice of Appeal dated February 10, 2003 accompanied by a Petition for a two month Extension of Term and a check in the amount of \$730.00. A copy of the combined Notice of Appeal and the Petition for Extension of Term and the check is attached hereto as Exhibit A. The aforementioned documents were placed in an envelope addressed to the Assistant Commissioner of Patents, Washington, D.C. on February 10, 2003. It is also to be noted the Notice of Appeal was accompanied by a certificate of mailing dated February 10, 2003, in which the docketing clerk, Mishelle Mustafa, certified that these documents were mailed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on that date.

As evidence of the timely filing of the Notice of Appeal and receipt thereof by the United States Patent and Trademark Office attached hereto as Exhibit B is a copy of a self-addressed postcard that accompanied the Notice of Appeal. The postcard lists the specific documents that were placed in the envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on February 10, 2003. It is to be observed that the postcard was stamped by the United States Patent and Trademark Office on February 13, 2003, evidencing that the United States Patent and Trademark Office received the Notice of Appeal and that its filing was timely. As further evidence that the Notice of Appeal was timely filed, enclosed herewith as Exhibit C is a copy of the check (front and back) that was mailed concurrently with the documents identified hereinabove on February 10, 2003. It is to be noted that the United States Patent and Trademark Office stamped "For Credit to the U.S. Treasury" dated February 13, 2003, further evidencing the filing and receipt by the United States Patent and Trademark Office.

As the Notice of Appeal was filed with the United States Patent and Trademark Office within the six month statutory period and as it was accompanied by a Petition for an Extension of Time of two months, together with the appropriate fee, the filing thereof was considered timely. Furthermore, the filing of the Notice of Appeal is considered a complete Response to the Final Action. Since the Notice of Appeal was received by the United States Patent and Trademark Office on February 13, 2003, the Appeal Brief was due by April 13, 2003; however, the due date can be extended up to five additional months, with the payment of appropriate extension fees so that the due date could be extended up to September 13, 2003.

However, on August 13, 2003, an RCE was filed, accompanied by a Response to the outstanding Office Action, a petition for a four month extension of term and two checks in the amount of \$1450.00 for the payment of extension of term and \$750.00 for filing the RCE and an authorization to charge deposit account no. 19-1013/SSMP in the amount of \$720.00 for the additional claims. A copy of the RCE and documents accompanying the RCE, including the Response and the transmittal letter is attached hereto as Exhibit D. These documents were caused to be placed in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 by Mark J. Cohen on August 13, 2003 as evidenced by the certificate executed by the undersigned.

As further evidence of the timely filing of these documents attention is directed to Exhibit E which is a copy of the postcard which accompanied these documents. The postcard lists the specific documents that were placed in the envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 13, 2003. More specifically, the postcard lists the following items:

1. Request for Continued Examination Transmittal.

2. Certificate of Mailing on the bottom of the RCE Transmittal form dated August 13, 2003, in which Mark J. Cohen certifies that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
3. Petition for Extension of Term for Four Months.
4. Certificate of Mailing on the Bottom of the Petition in which Mark J. Cohen certifies that it was deposited on August 13, 2003 with the U.S. Postal Service as first class mail addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
5. Response
6. Certificate of Mailing on the bottom of the Response dated August 13, 2003 in which Mark J. Cohen certifies that it was deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Alexandria, VA 22313-1450 on August 13, 2003.
7. A check in the amount of \$1,450.00
8. A check in the amount of \$750.00
9. Amendment Transmittal with authorization to charge Deposit Account No. 19-1013/SSMP in the amount of \$720.00
10. Certificate of Mailing on the bottom of the Amendment Transmittal dated August 13, 2003 in which Mark J. Cohen certifies that the documents, were deposited on August 13, 2003 with U.S. Postal Service as first class mail

addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

As indicated by the date stamped on the postcard by the mailroom of the United States Patent and Trademark Office receipt of these documents was acknowledged by the United States Patent and Trademark Office on August 18, 2003, further evidencing that the United States Patent and Trademark Office received the documents.

As further evidence of the timely filing of these documents, enclosed herewith in Exhibit F is a copy of the two checks (front and back) that were mailed concurrently with the documents listed hereinabove on August 13, 2003. Again, it is noted that the United States Patent and Trademark Office stamped "For Credit to the U.S. Treasury" on August 21, 2003, further evidencing that the Response was timely filed and received by the United States Patent and Trademark Office. In addition, Exhibit G is a copy of the monthly statement Deposit Account, which indicates the payments charged to the Deposit Account 19-1013/SSMP. All of the irrelevant information has been deleted. Again, attention is directed to the entry for U.S.S.N. 09/666,369, which indicates that the United States Patent and Trademark Office charged the Deposit Account for additional fees in the amount of \$720.00 on August 19, 2003, again evidencing that the United States Patent and Trademark Office received these documents and that they were filed timely.

If necessary, applicant's attorney would be willing to submit Declarations further evidencing the filing of the Notice of Appeal on February 10, 2003 and a filing of the RCE and Response to the outstanding Office Action on August 13, 2003.

These submissions are deemed to be in full compliance with the requirements of 37 C.F.R. §1.8(b). Accordingly, it is respectfully submitted that in view of these facts, the

appropriate documents were timely filed in the United States Patent and Trademark Office and the United States Patent and Trademark Office has incorrectly abandoned the above-identified application. Consequently, it is respectfully requested that the United States Patent and Trademark Office record the filing of the Notice of Appeal, the filing of the RCE and the accompanying Response as timely and that the application be revived.

A petition fee is not expressly required under the controlling provisions of 37 C.F.R. §1.8(b). Authorization is given, however, to charge payment of any necessary fees associated with this communication to Deposit Account No. 19-1013/SSMP. A duplicate copy of this paper is enclosed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark J. Cohen". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mark J. Cohen  
Registration No. 32,211

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MJC:lf